

# EXHIBIT 37

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

- - - - -  
IN RE: PHARMACEUTICAL ) MDL NO. 1456  
INDUSTRY AVERAGE WHOLESALE ) CIVIL ACTION  
PRICE LITIGATION ) 01-CV-12257-PBS  
THIS DOCUMENT RELATES TO )  
U.S. ex rel. Ven-A-Care of ) Judge Patti B. Saris  
the Florida Keys, Inc., )  
vs. ) Chief Magistrate  
Abbott Laboratories, Inc., ) Judge Marianne B.  
No. 06-CV-11337-PBS ) Bowler  
- - - - -

(Captions continued on following pages)

VOLUME II - CONTAINS HIGHLY CONFIDENTIAL PORTIONS

DEPOSITION OF VEN-A-CARE (T. MARK JONES)

Videotaped deposition of Ven-A-Care (T. Mark Jones), held at the Law Offices of Hunton & Williams, LLP, 1111 Brickell Avenue, Suite 2500, Miami, Florida, 33131, on Wednesday, March 19, 2008, commencing at 8:59 a.m., before Donald W. McKay, RMR, CRR, a Notary Public for the State of Florida.

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1 business as a home infusion pharmacy?

2 MR. BREEN: Objection to form.

3 THE WITNESS: I'll have to look at the  
4 invoice and see what the date is and where I got  
5 it from.

6 BY MR. COOK:

7 Q. Are there any other of the subject  
8 drugs in the Department of Justice or Texas  
9 lawsuits that you can point me to an invoice for  
10 Ven-a-Care purchasing the drug?

11 A. There may be water for injection and  
12 bacteria static water for injection.

13 Q. Do you know what the date was for those  
14 invoices?

15 A. I believe they were around the same  
16 time frame.

17 Q. Do you know whether they were  
18 administered to a patient?

19 A. I'd have to look at it.

20 Q. And to round out this line of  
21 questioning, I think what I indicated to you  
22 yesterday -- if not, I'll indicate it to you

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1 today -- is I would like to take an entire life  
2 cycle of one of the subject -- at least one of  
3 the subject drugs purchased by Ven-a-Care and  
4 that's the subject of this lawsuit, showing how  
5 Ven-a-Care purchased the drug, where Ven-a-Care  
6 purchased it, the amount Ven-a-Care paid, the  
7 patient -- not by name, obviously --

8 **A. Um-hmm.**

9 Q. -- to whom it was administered, how --  
10 or dispensed, how it was dispensed, the claim  
11 form that was submitted, the information on that  
12 claim form, and then the amount of money that  
13 Ven-a-Care received and what Ven-a-Care did with  
14 that money. Do you understand what I'm talking  
15 about, the life cycle of the drug?

16 **A. I understand.**

17 Q. To be very clear, Ven-a-Care is not  
18 able to give me documentary evidence to allow me  
19 to take a drug through that entire life cycle; is  
20 it?

21 MR. BREEN: Objection to form.

22 THE WITNESS: I haven't tried to put

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1 certain of our RFP's.

2 MR. BREEN: I understand what you're  
3 asking.

4 BY MR. COOK:

5 Q. Is it fair to say, Mr. Jones, that in  
6 filing Ven-a-Care's various lawsuits in this  
7 case, its original complaint, its Second Amended  
8 Complaint, all the way through its Fourth Amended  
9 Complaint, and adopting the government's  
10 complaints in intervention, that Ven-a-Care has  
11 not undertaken the process of putting together  
12 the chain of documents showing the lifespan of a  
13 reimbursed drug in the way that I've asked you  
14 today? Right?

15 MR. BREEN: Objection to form.

16 THE WITNESS: I don't believe in the  
17 way you asked me today.

18 BY MR. COOK:

19 Q. And I'm asking you as a corporate  
20 designee, has Ven-a-Care, in filing its lawsuits  
21 -- and this may short-circuit going through  
22 individual complaints -- as to each of the drugs

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1 that Ven-a-Care named in its various lawsuits,  
2 has Ven-a-Care made certain that it actually  
3 purchased each of the drugs named in each of the  
4 lawsuits?

5 MR. BREEN: Objection to form.

6 THE WITNESS: I don't believe Ven-a-  
7 Care has purchased every drug in each of the  
8 lawsuits.

9 BY MR. COOK:

10 Q. And where the lawsuits -- in the  
11 complaints, it says Ven-a-Care's price, is it a  
12 fair characterization that when Ven-a-Care lists  
13 Ven-a-Care's price in a complaint, that is a  
14 price at which Ven-a-Care could purchase the  
15 product, not necessarily a price at which Ven-a-  
16 Care did purchase that particular NDC?

17 A. The prices that are listed in the  
18 complaint represent prices that are available to  
19 Ven-a-Care, either through GPO's, wholesalers,  
20 direct with companies.

21 Q. And if I were to -- Exhibit 414 is a  
22 good inch thick. It's the various complaints

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1 listed them out by NDC number, by strength. We  
2 put their AWP's, their direct prices if  
3 available, Ven-a-Care's prices, and the spreads  
4 available, and we did them for each of the drugs  
5 which we provided to the government. And all of  
6 this I'm talking about was provided to the  
7 government.

8 BY MR. COOK:

9 Q. All of this predates the filing of the  
10 complaint. Correct?

11 A. Yes. Yes. I'm trying to --

12 Q. What's the time frame in which this  
13 conduct -- in which these communications with the  
14 government took place?

15 A. We started in '94, the beginning.

16 MR. BREEN: I'm going to object to the  
17 form in terms of "these communications."

18 MR. COOK: Sure. I can make it a  
19 little more specific.

20 BY MR. COOK:

21 Q. Mr. Jones, you described a number of  
22 meetings with the Office of Inspector General,

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1 Office of Audit Services, and meetings with the  
2 Department of Justice prior to the filing of the  
3 first complaint in this case. When did the first  
4 of those meetings with the Office of Inspector  
5 General, the Department of Justice occur?

6 **A. Well, I believe in -- I'm just taking a**  
7 **guess -- it was early '94. It may have been '93**  
8 **with the OIG. The Department of Justice meetings**  
9 **were in '94 and '95.**

10 Q. Is it your understanding that the  
11 Office of Inspector General, Office of Audit  
12 Services, was conducting an investigation in  
13 order to determine what the actual prices in the  
14 marketplace were for drugs, including those named  
15 in the First Amended Complaint?

16 MR. BREEN: Objection to form.

17 THE WITNESS: That was a part of an  
18 investigation, yes.

19 BY MR. COOK:

20 Q. Was there a larger aspect of the  
21 investigation that you could describe?

22 **A. Well, they also were looking at the**